

In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 190

JAMES TURNER, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE THIRD CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

In his reply brief (p. 5 & n. 3), *Amicus* Burgess argues that the government's brief substantially underestimates the maximum quantity of heroin theoretically available from drugs stolen in this country because the calculations in our brief are restricted to thefts of medical opium and morphine and exclude thefts of codeine, from which a reported 70 percent yield of morphine can be derived.

The Bureau of Narcotics and Dangerous Drugs informs us that the report of a 70 percent yield in the conversion of codeine to morphine referred to in note 3 of the reply brief is, in its opinion, "nothing but a false rumor" because such a yield has never been reported in the scientific literature. The Bureau further informs us, however, that it is possible scientifically to convert (or "reconvert") codeine to morphine by heating codeine with pyridine HCl to cleave the methyl group from the codeine molecule.

This process produces a yield of approximately 22 percent. It was first reported by Rapaport, *et al.*, in the Journal of American Chemical Society, Vol. 73, p. 5900, and the process was verified by Gates, *et al.*, in the same journal, Vol. 74, p. 1109 and Vol. 78, p. 1380.¹

While the process of converting codeine to morphine can be conducted with relative simplicity and with inexpensive equipment, the Bureau informs us that the process could not realistically be used in a clandestine operation. This is because the conversion process would produce an extremely noxious and penetrating odor which would be noticeable over a very large area—the effect on anyone in the vicinity would be at least as offensive as that of a rendering plant. Moreover, morphine produced by this process and heroin derived therefrom would be scientifically distinguishable from normally produced morphine or heroin because they would contain detectable amounts of codeine (which could be eliminated only by recrystallizing the product many times, with a resulting loss of yield).

We believe, therefore, that our brief (pp. 19-21) is accurate in basing calculations of the maximum quantities of heroin theoretically available from stolen drugs in this country solely on the reported thefts of opium and morphine.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1969.

¹ The Bureau also informs us that it might theoretically be possible to convert dionin to morphine by a comparable process, but that such conversion has never been reported.